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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,033	02/09/2001	Donald P. Gibson	36.P290	1583
5514	7590	08/30/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			VAN BRAMER, JOHN W	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 08/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/781,033	<b>Applicant(s)</b> GIBSON ET AL.	
	<b>Examiner</b> John Van Bramer	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 5, 2006 has been entered.

### ***Response to Amendment***

2. The amendment July 5, 2006 has been entered and considered. Previous amendments cancelled Claims 1 – 54 are cancelled in the current amendment. No claims were added and Claims 55, 58, and 59 were amended. Thus, the currently pending claims considered below remain Claims 55 - 59.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 55 - 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Agarwal et al (6,509,910).

Claim 55: Agarwal discloses an apparatus for providing image displaying services comprising:

- a. Advertising information receiving means for receiving local advertising information corresponding to the place at which a user terminal is hosted from a first advertiser entity. (Col 2, line 60 through Col 3, line 9)
- b. Widespread advertising information receiving means for receiving widespread advertising information from a second advertiser entity via a portal, wherein the widespread advertising information is shared between a plurality of said apparatuses. (Col 2, line 60 through Col 3, line 9)
- c. Storing means for storing the local advertising information and the widespread advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, lines 57-67)
- d. Photo image receiving means for receiving a photo image from a user terminal. (Col 2, line 60 through Col 3, line 9)
- e. First display controlling means for displaying thumbnail images corresponding to the received photo image. (Col 14, lines 27 – 40).
- f. Selection receiving means for receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

Art Unit: 3622

- g. Obtaining means for obtaining the local advertising information from the advertising database. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)
- h. Second display controlling means for displaying the photo image corresponding to the selected thumbnail image and the obtained local advertising information together at the user terminal. (Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

Claim 56: Agarwal discloses an apparatus according to Claim 55, further comprising:

- a. Third display controlling means for displaying a service menu at the user terminal. (Col 14, lines 41 – 52 and Col 15, lines 18 – 30)
- b. Receiving means for receiving a request of the service menu from the user terminal, wherein the first display controlling means displays the thumbnail images at the user terminal in response to the request received by the receiving means. (Col 14, lines 41 – 52; Col 15, lines 18 – 30; and Col 20, lines 30 – 52)

Claim 57: Agarwal discloses an apparatus according to Claim 55, wherein the image receiving means receives the image data via a cable head end. (Col 2, line 64 – Col 3, line 9; and Col 23, lines 17 – 20)

Claim 58: Agarwal discloses a method for providing image displaying services comprising the steps of:

- a. Receiving local advertising information corresponding to the place at which a user terminal is hosted from a first advertiser entity. (Col 11, 35-65 and Col 12, lines 13 – 43)
- b. Receiving widespread advertising information from a second advertiser entity via a portal, wherein the widespread advertising information is shared between a plurality of apparatuses. (Col 11, 35-65 and Col 12, lines 13 – 43)
- c. Storing the local advertising information and the widespread advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, lines 57-67)
- d. Receiving a photo image from a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)
- e. Displaying thumbnail images corresponding to the received photo image. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- f. Receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- g. Obtaining the local advertising information from the advertising database. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)
- h. Displaying the photo image corresponding to the selected thumbnail image and the obtained local advertising information together at the user terminal. (Col 10, lines 20 – 45)

Claim 59: Agarwal discloses a computer-readable memory medium having computer executable process steps stored thereon, wherein said process steps comprise:

- a. A first receiving step for receiving local advertising information corresponding to the place at which a user terminal is hosted from a first advertiser entity.  
(Col 11, 35-65 and Col 12, lines 13 – 43)
- b. A second receiving step for receiving widespread advertising information from a second advertiser entity via a portal, wherein the widespread advertising information is shared between a plurality of apparatuses. (Col 11, 35-65 and Col 12, lines 13 – 43)
- c. A storing step for storing the local advertising information and the widespread advertising information in an advertising database. (Col 4, lines 23-44; and Col 4, lines 57-67)
- d. A third receiving step for receiving a photo image from a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)
- e. A display step for displaying thumbnail images corresponding to the received photo image data. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- f. A selection-receiving step for receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- g. An obtaining step for obtaining the local advertising information from the advertising database. (Col 2, line 60 through Col 3, line 9; and Col 5, lines 1-14)

- h. A second display step for displaying the photo image corresponding to the selected thumbnail image and the obtained local advertising information together at the user terminal. (Col 10, lines 20 – 45)

### ***Response to Arguments***

- 5. Applicant's arguments filed July 5, 2006 have been fully considered but they are not persuasive. The applicant argues that the Agarwal patent does not disclose or suggest receiving two kinds of advertising information, wherein the local advertising information corresponds to the place at which a user terminal is hosted and is received from a first advertiser entity, and wherein the widespread advertising information is received from a second advertiser entity, received via a portal, and is shared between a plurality of apparatuses. However, the applicants specification indicates that the means for receiving both the local and widespread advertising is the same device (Host Server 104) and differentiation is provided as to how the host server 104 processes and displays these advertisements is disclosed (Applicant's specification: Page 9 lines 23 – Page 10, line 7). The only disclosed difference between local and widespread advertisement disclosed is that the Advertiser makes a decision independent of the disclosed invention as to whether to send the advertising information to one or multiple host servers. Therefore, Agarwal does teach the receipt of information from a remote source (See rejected section above) regardless of whether the advertiser has sent this information to other sources.



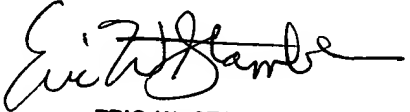
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jvb

  
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